



THE CRIMINAL COURT

Hon. Mr. Justice Dr. Aaron M. Bugeja M.A. (Law), LL.D. (melit)

Bill of Indictment No. 13/2021

Today, 6th December 2022

The Republic of Malta
vs.
Abidemi Abigail ABORISHADE

The Court:

Having seen the accusations brought against the accused Abidemi Abigail ABORISHADE, daughter of Aborishade born in Nigeria on the 7th October 1982, and without fixed place of residence in Italy, holder of Nigerian Passport number A50255550.

Whereby the Attorney General premised as follows:

**THE ATTORNEY GENERAL, in the name of the Republic of Malta,
declares:**

First (1st) Count

Importation of the drug Cannabis

That, on the eight (8th) January of the year two thousand and nineteen (2019), the Customs Official stationed at the Malta International Airport stopped the accused **Abidemi Abigail Aborishade** as she had just landed from a flight (FR 3874) from Treviso, Italy.

The accused passed through the blue channel at the Malta International Airport and as a usual procedure she was stopped for a currency check by Customs Officials. The luggage was sent to the x-ray machine to be scanned and upon examination, customs officials opened the luggage and they found five suspicious packets wrapped in plastic. A field test was carried out instantly which test indicated positive to cannabis. Due to this, the Customs Officer called the Police to assist in this search.

Inspector Jonathan Cassat from the Police Drug Squad instructed PS 1289 and WPC 298 to go the Malta International Airport where the five (5) packets of suspected cannabis retrieved from the accused luggage were handed over to PS1289. Due to this suspicion the Police duly informed the Duty Magistrate who appointed several experts to assist in the inquiry while further investigations ensued.

The accused was given her rights according to law and the right to seek legal advice. She explained that whilst in Italy, a dark skinned male whom she didn't know had approached her and asked her to do him favour and hold him these five (5) packets which she thought they consisted of dried fish. She stated that whilst the Customs Officials were searching her luggage this person was with her however he was not stopped by the Customs Officials and passed through customs uneventfully.

Following queries with the Customs Officials it transpired that although there was indeed a dark skinned person in close proximity to the accused upon being asked specifically whether this person was with her she replied in the negative and denied knowing this person.

That, analysis of the above mentioned substance carried out by the Court appointed expert resulted that, as suspected, the substance tetrahydrocannabinol was detected which is a constituent of the Cannabis plant. The total weight of the cannabis plant found was 1 kg with a purity of approximately 6% and carrying a total street value of between ten thousand (€ 10,000) and twenty-eight thousand (€ 28,000) euro.

That, Cannabis is a dangerous drug specified and controlled under the provisions of Part 1, First Schedule of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta). Furthermore, **Abidemi Abigail Aborishade** was not in possession of any valid and subsisting import or possession license or authorisation from the President of Malta granted in pursuance of the said law, and was not authorised by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) or by any other authority

give by the President of Malta, to be in possession of this drug in terms of Regulation 9 of the said Regulations, and was likewise not in possession of a valid prescription in terms of the said Regulations;

The Consequences:

By committing the above- mentioned acts with criminal intent, the accused **Abidemi Abigail Aborishade** rendered herself guilty of importing or causing to be imported or taking any steps preparatory to importing the dangerous drug (Cannabis) in these Islands in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta).

The Accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances as narrated above, accuses **Abidemi Abigail Aborishade** of being guilty of, on the on the eight (8th) January of the year two thousand and nineteen (2019) and/ or in previous weeks before this date, having, with criminal intent, imported or caused to be imported or taken any steps preparatory to importing the dangerous drug (Cannabis) into Malta, and this in breach of the provisions of the Dangerous Drugs Ordinance, (Chapter 101 of the Laws of Malta),

The Punishment Demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused **Abidemi Abigail Aborishade** be proceeded against according to law, and that she be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand, and three hundred and twenty-nine euro and thirty- seven cents (€ 2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in respect of which the offence was committed and as described in the bill of indictment, as is stipulated and laid down in articles 2, 8(d) (e), 10 (1), 12, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7) 22A, 24A, and 26 of the Dangerous Drugs Ordinance and of Regulations 2 and 9 of the Government Notice 292 of 1939, and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilt of the accused.

Second (2nd) Count

Possession of the drug Cannabis, not for personal use

The Facts:

That, under the circumstances indicated in the First Count of this Bill of Indictment that is, after having agreed with an unknown person to import drugs to Malta, the accused **Abidemi Abigail Aborishade** on arrival in Malta from Treviso, Italy was stopped by Custom Officials at the Malta International Airport who undertook a search of her suitcase wherein they found five (5) suspicious packets wrapped in plastic.

That, on the analysis of the above mentioned substance carried out by the Court appointed expert resulted that, as suspected, the substance tetrahydrocannabinol was detected which is a constituent of the Cannabis plant. The total weight of the cannabis plant found was 1 kg with a purity of approximately 6% and carrying a total street value of between ten thousand (€ 10,000) and twenty- eight thousand (€ 28,000) euro.

That, from the amount of drugs found as well as the circumstances of the case in question, it emerges clearly that the said drug Cannabis was not for personal use of the same accused **Abidemi Abigail Aborishade**, but was intended to be trafficked in the Maltese market;

That, Cannabis is a dangerous drug specified and controlled under the provisions of Part 1, First Schedule of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta). Furthermore, **Abidemi Abigail Aborishade** was not in possession of any valid and subsisting import or possession license or authorisation from the President of Malta granted in pursuance of the said law, and was not authorised by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) or by any other authority give by the President of Malta, to be in possession of this drug in terms of Regulation 9 of the said Regulations, and was likewise not in possession of a valid prescription in terms of the said Regulations;

The Consequences:

By committing the above mentioned acts with criminal intent, the accused **Abidemi Abigail Aborishade** rendered herself guilty of being in possession of a dangerous drug (Cannabis) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when she was not in possession of an import authorization issued by the Chief Government Medical Officer in pursuance of the provisions of part III of the Ordinance, and when she was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of

Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to her for her personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for her personal use.

Punishment Demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused Abidemi Abigail Aborishade be proceeded against according to law, and that she be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand, and three hundred and twenty-nine euro and thirty- seven cents (€ 2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in respect of which the offence was committed and as described in the bill of indictment, as is stipulated and laid down in articles 2, 8(d) (e), 10 (1), 12, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7) 22A, 24A, and 26 of the Dangerous Drugs Ordinance and of Regulations 2 and 9 of the Government Notice 292 of 1939, and of articles 17,23,23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilt of the accused.

Third (3rd) Count

Committed an offence whilst being under an operative period of a suspended sentence

The Facts:

That, on the eight (8th) January of the year two thousand and nineteen (2019), the Customs Official stationed at the Malta International Airport stopped the accused Abidemi Abigail Aborishade as she had just landed from a flight (FR 3874) from Treviso, Italy.

The accused passed through the blue channel at the Malta International Airport and as a usual procedure she was stopped for a currency check by Customs Officials. The luggage was sent to the x-ray machine to be scanned and upon examination, customs officials opened the the luggage and they found five suspicious packets wrapped in plastic. A field test was carried out instantly which test indicated positive to cannabis.

That the accused **Abidemi Abigail Aborishade** had previously been arraigned in Malta and charged with a criminal offence and found guilty in terms of Section 28A of Chapter 9 of the Laws of Malta, to six month imprisonment suspended for two years. This judgment was delivered by the Court of Magistrates (Malta) presided by Magistrate Dr Monica Vella, LLD on the 6th of February 2017, which judgment has become definitive.

The Consequences:

By committing the offences specified in the 1st and 2nd Count of this Bill of Indictment, it follows that the accused **Abidemi Abigail Aborishade** breached the conditions that she would not commit another offense whilst being under an operative period of a suspended sentence, and consequently the accused failed to comply with her obligation under the aforesaid orders.

The Accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **Abidemi Abigail Aborishade** of having on the 8th of January of the year two thousand and nineteen (2019) committed an offence punishable by imprisonment whilst being under an operative period of a suspended sentence.

Punishment Demanded:

Wherefore, the Attorney General in the name of the Republic of Malta, demands that the accused Abidemi Abigail Aborishade be proceeded against according to law, and that in virtue of Article 28B of Chapter 9 of the Laws of Malta, the Court shall order that the suspended sentence shall take effect.

Having seen the joint application of the Attorney General and accused, presented in the registry of this Court on the 29th November 2022, whereby, the applicants, whilst making reference to Section 453A(1) of the Criminal Code, requested this Court to consider that in the event that accused Abidemi Abigail ABORISHADE admits all the charges proffered against her in the bill of indictment, the punishment to be awarded by this same Court, ought to consist of a term of imprisonment of five (5) years and the imposition of a fine of twenty three thousand euro (€23,000) together with the other sanctions and consequences that are mandatorily prescribed by Law upon conviction in terms of the provisions of Chapter 101 of the Laws of Malta, including the confiscation of any monies and other movable and immovable property of the accused according to law.

Having seen all the records of the proceedings, in particular those resulting from the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen that in today's sitting the accused Abidemi Abigail ABORISHADE, in reply to the question as to whether she was guilty or not guilty of the charges preferred against her under the three counts of the Bill of Indictment, stated that she was pleading guilty thereto;

Having seen that according to Section 453 of Chapter 9 of the Laws of Malta this Court, in the presence of her legal counsel, then warned the accused in the most solemn manner of the legal consequences of such statement and allowed her ample time to reconsider it and even retract it should she so wish;

Having seen that the accused, after being granted such a time, persisted in her statement that she was guilty as charged.

Consequently:

This Court after having seen articles 2, 8(d)(e), 10(1), 12, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22A, 24A, and 26 of the Dangerous Drugs Ordinance and of Regulations 2 and 9 of the Government Notice 292 of 1939, and of articles 17, 23, 23A, 23B, 23C, 28A, 28B, and 533 of the Criminal Code declares Abidemi Abigail ABORISHADE guilty of the three counts in the Bill of Indictment, namely of having on the eight (8th) January of the year two thousand and nineteen (2019):

- 1. rendered herself guilty of importing or causing to be imported or taking any steps preparatory to importing the dangerous drug (Cannabis) in these Islands in breach of the provisions of Chapter 101 of the Laws of Malta; and**
- 2. rendered herself guilty of being in possession of a dangerous drug (Cannabis) as specified in the First Schedule of Chapter 101 of the Laws of Malta when she was not in possession of an import authorization issued by the Chief Government Medical Officer in pursuance of the provisions of part III of the Ordinance, and when she was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and**

was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to her for her personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for her personal use; and

3. breached the conditions that she would not commit another offense whilst being under an operative period of a suspended sentence, and consequently the accused failed to comply with her obligation under the aforesaid orders and consequently after having seen articles 28A and 28B of the Criminal Code, the Court finds the accused guilty of having committed the criminal offences mentioned in the first and second counts of this bill of indictment during the operative period of a suspended sentence of imprisonment and therefore, in terms of the said article 28B of the Criminal Code, it decides to deal with ABORISHADE also in respect of this suspended sentence and orders that this suspended sentence takes effect immediately.

After having assessed the circumstances of this case, and after having also analysed other prior judgments delivered by other Courts of Criminal Jurisdiction in cases that included identical accusations in circumstances as similar to this case as much as possible, including by reference to the modality of the commission of the offences, the nature, quality and quantity of the drugs involved, including the percentage purity of the active ingredients, among which **The Republic of Malta vs. Mamadi Keita** of the 6th April 2016 and **The Republic of Malta vs. Kenny Johnson** decided by this Court on the 7th December 2017, the Court finds the agreement reached by the accused and the Attorney General as falling within similar margins set by the said judgments and decides to adhere to the terms of the application filed by the Attorney General and the accused.

DECIDE

Therefore, the Court condemns the said Abidemi Abigail ABORISHADE to a term of imprisonment of five (5) years and six (6) months together with the imposition of a fine of twenty-three thousand Euros (€23,000), which fine (multa) in default of payment, shall be converted into a further term of imprisonment according to Law.

Furthermore, condemns her to pay the sum of three thousand two hundred twenty-five euro (€3,225) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta.

The Court further orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which the accused has been found guilty and other moveable and immovable property belonging to the said Abidemi Abigail ABORISHADE.

Finally, orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

**Aaron M. Bugeja,
Judge**